

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:21-cv-00319-MR

RUSTY ANDERSON, )  
                          )  
Plaintiff,            )  
                          )  
vs.                    )  
                          )  
GENE DAVIDSON, et al., )                    ORDER  
                          )  
Defendants.            )  
                          )  
\_\_\_\_\_

**THIS MATTER** is before the Court *sua sponte*.

The pro se Plaintiff filed this action pursuant to 42 U.S.C. § 1983 addressing incidents that are alleged to have occurred at the Cleveland County Detention Center, where he is a pretrial detainee. On March 9, 2022, the Court issued an Order dismissing the Complaint on initial review and granting the Plaintiff 30 days in which to amend the Complaint. [Doc. 8]. The Plaintiff was cautioned that, should he fail to timely amend his Complaint, the action would be dismissed without prejudice and without further notice. [Id.].

The Plaintiff has failed to file an Amended Complaint, and the time to do so has expired. The Plaintiff appears to have abandoned this action, and the Court is unable to proceed. This case will therefore be dismissed without prejudice. See Fed. R. Civ. P. 41(b) ("If the plaintiff fails to prosecute or to

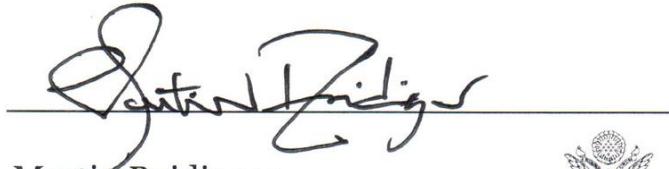
comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it."); Link v. Wabash R.R. Co., 370 U.S. 626, 630-33 (1962) (although Rule 41(b) does not expressly provide for *sua sponte* dismissal, Rule 41(b) does not imply any such restriction and a court has the inherent power to dismiss a case for lack of prosecution or violation of a court order).

**IT IS, THEREFORE, ORDERED** that this action is **DISMISSED WITHOUT PREJUDICE.**

The Clerk of Court is respectfully directed to terminate this action.

**IT IS SO ORDERED.**

Signed: April 26, 2022



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Martin Reidinger  
Chief United States District Judge 